

The time for hearing this matter, with the leave to take testimony, was, by an order of the 26th of November, 1822, extended to the second day of January following. After which, the case was again brought before the Court, and on motion,

JOHNSON, C., 8th January, 1823.—Ordered, that the surveyor of Anne Arundel County lay down any land that may be directed by either of the parties, for the better illustration of the matter in controversy; and to ascertain the land and the quantity thereof, that was sold by the trustee. And that depositions be taken on the survey, that either of the parties may direct.

Under this order the surveyor laid down the lands as directed, and on the 19th of March, returned a plot and certificate of the surveys he had made; and the parties having filed sundry depositions taken under the previous order, the matter was brought on for hearing.

JOHNSON, C., 17th April, 1823.—It is alleged by the petitioner, that Ashur Foulke, the trustee, under a decree for the sale of the real estate of Stephen Scotton, sold to the petitioner part of a tract of land called Duvall's Delight, supposed to contain one hundred and forty acres, at \$11 per acre; that at the time of the sale, the trustee represented a piece of woodland, on the north side of the said tract of land, as part of the said tract called \* Duvall's **633** Delight; that he believes that the lines of the several neighboring tracts of land run into and take off a great part of the woodland; and that the woodland was the principal inducement to his purchasing. As the property did not, according to the allegations contained in the petition, correspond with the representation made by the trustee, it is prayed that the sale may be set aside or annulled.

Preparatory to a decision, an order passed for laying down the land that was sold, as well as any other land that might be deemed by the parties necessary for the illustration of the matter in controversy.

On examining the plot returned by the surveyor, it appears that the trustee has laid down the land which he sold to the petitioner, and this location is not counter-located; and therefore admitted to be the land purchased. The quantity is one hundred and forty-one and three-quarter acres, of which three roods are within the lines of a deed executed by Charles Carroll to Humphrey Hogan, on the 16th of July, 1723.

It seems to appear that Charles Carroll was the owner of the whole of the tract of land, which was conveyed by him to different persons; and before it can be known whether the three roods are the property of those claiming under Hogan, or belonging to the